

## **MINUTES**

### **MONTANA SENATE 57th LEGISLATURE - REGULAR SESSION COMMITTEE ON BUSINESS AND LABOR**

**Call to Order:** By **CHAIRMAN MIKE TAYLOR**, on March 21, 2001 at 8:00 A.M., in Room 422 Capitol.

#### **ROLL CALL**

**Members Present:**

Sen. Mike Taylor, Chairman (R)  
Sen. Mike Sprague, Vice Chairman (R)  
Sen. Edward Butcher (R)  
Sen. Vicki Cocchiarella (D)  
Sen. Sam Kitzenberg (R)  
Sen. Glenn Roush (D)  
Sen. Don Ryan (D)

**Members Excused:** Sen. Dale Berry (R)  
Sen. Dale Mahlum (R)

**Members Absent:** None.

**Staff Present:** Bart Campbell, Legislative Branch  
Kyanne Kelly, Committee Secretary

**Please Note:** These are summary minutes. Testimony and discussion are paraphrased and condensed.

**Committee Business Summary:**

Hearing(s) & Date(s) Posted: HB 333, 3/18/2001; HB 504,  
3/18/2001; HB 544, 3/18/2001  
Executive Action: HB 539; HB 504

HEARING ON HB 333

Sponsor: REPRESENTATIVE LARRY JENT, HD 29 BOZEMAN

Proponents: Brian Wohlers, Representing himself  
Rick Pyfer, Represents Injured Workers  
Tom Murphy, Montana Trial Lawyers  
Susan Good, Montana Orthopedic Society  
Patti Keebler, AFL-CIO  
John Flink, MHH  
Al Smith, Montana Trial Lawyers Association

Opponents: George Wood, Montana Self Insurers Association  
Larry Jones, Liberty Northwest  
Bob Worthington, MT Municipal Insurance Authority  
Nancy Butler, State Fund  
Jacqueline Lenmark, American Insurance Association  
Ray Barnicot, MT Association of Counties  
Dwight Easton, Farmers Insurance

Opening Statement by Sponsor:

*{Tape : 1; Side : A; Approx. Time Counter : 1.8}*

REPRESENTATIVE LARRY JENT, HD 29 BOZEMAN, said this act would require insurers to pay attorney's fees and costs when denial or termination of medical benefits are later determined compensable by the Workers' Compensation court.

Proponents' Testimony:

Brian Wohlers, Representing himself, said he was electrocuted on the job and his medical bills were not paid by the insurer and because of this he lost his home.

Rick Pyfer, Represents Injured Workers, said claimants don't understand the system and they need someone to help them, and it becomes a cumbersome economic problem for them.

Tom Murphy, Montana Trial Lawyers, said frequently people who have been injured can not find anyone to support their claim for medical care and can not find a lawyer who can look after their interests. He said this bill would make sure that the Comp insurers would pay for a debt that they owe.

**Susan Good, Montana Orthopedic Society**, said the physicians are providing excellent care at a very reasonable rate, and to make them pay the attorneys fees out of their fee is not fair.

**Patti Keebler, AFL-CIO**, said she supports this as a matter of simple justice.

**John Flink, MHH**, said that it is unfair that medical providers are asked to pay part of the attorney's fees.

**Al Smith, Montana Trial Lawyers Association**, said this is not creating any new rights, the one who wrongly made the denial of the benefit in the first place should be responsible for the payment.

**Opponents' Testimony:**

**George Wood, Montana Self Insurers Association**, said this benefits the attorneys, not the doctors, and any cost increase will be paid by Montana employers.

**Larry Jones, Liberty Northwest**, said this bill does not have the standard of wrongful denial, only that the insurer agreed to pay the benefits or not pay the benefits.

**Bob Worthington, MT Municipal Insurance Authority**, said this is a confusing bill and changes the standards.

**Nancy Butler, State Fund**, said this bill sets new standards for award of attorneys fees through medical than it does through indemnity or wage loss. She said currently insurers are only responsible for fees if they are found unreasonable.

**Jacqueline Lenmark, American Insurance Association**, said she opposed this bill for the reasons stated by previous witnesses.

**Ray Barnicot, Montana Association of Counties**, said he opposes the bill.

**Dwight Easton, Farmers Insurance**, said he opposes the bill.

**Questions from Committee Members and Responses:**

**SENATOR MIKE SPRAGUE** asked how much of an increase in the caseload there would be if this bill passed.

**Nancy Butler**, said she didn't know.

**Closing by Sponsor:**

***{Tape : 1; Side : B; Approx. Time Counter : 12.5}***

**REPRESENTATIVE LARRY JENT, HD 29 BOZEMAN**, said attorneys get paid the same rate whether this bill passes or not, the question is who writes the check, it would come either from the doctors fee or from the insurance company who made the wrong decision in the first place.

**EXECUTIVE ACTION ON HB 539**

**Motion:** SEN. SPRAGUE moved that **AMENDMENTS TO HB539 #53905 BE ADOPTED. EXHIBIT (bus64a01)**

**Discussion:** SENATOR DON RYAN said that by setting into statute these rates they are saying they approve of the rates that are way too high. SENATOR SPRAGUE said that right now there is no control on the rates, this bill would put some restrictions on the business. SENATOR BUTCHER said this would equal 120% per year. Bart Campbell said 20-30% for 30 days is the same as in the Pawn business. CHAIRMAN TAYLOR said that after they are licensed it will be easier to have some control over the business.

**Vote:** Motion carried unanimously.

**Motion:** SEN. SPRAGUE moved that **HB 539 BE CONCURRED IN AS AMENDED.**

**Discussion:** SENATOR BUTCHER wanted to cut the rate back after 30 days. SENATOR SPRAGUE said that for every \$100 they borrow it is \$25, but these people can't go to the bank and get a loan at the lower rate, and they plan to do it for only 30 days. He said there is a real need for this service in certain circles of people.

**Vote:** Motion carried 8-1 with Ryan voting no.

**HEARING ON HB 504**

**Sponsor:** REPRESENTATIVE DAVE GALLIK, HD 52, HELENA

**Proponents:** Jan VanRiper, State Auditor's Office  
Susan Witte, Blue Cross/ Blue Shield  
Roger McGlenn, Independent Insurance Agents

**Al Pontrelli, Insurance and Financial Advisors**  
**Jaqueline Lenmark, American Insurance Association**  
**Stuart Doggett, Land Title Association**  
**Dwight Easton, Farmers Insurance**  
**Mary Allen, Montana Benefits**

Opponents: None

Opening Statement by Sponsor:

*{Tape : 2; Side : A; Approx. Time Counter : 3.1}*

**REPRESENTATIVE DAVE GALLIK, HD 52, HELENA,** said this was the Insurance Commissioners housekeeping bill. He said they gave this to insurance groups, consumer groups and other groups affected by this bill and they worked out an agreeable bill.

Proponents' Testimony:

**Jan VanRiper, State Auditor's Office,** handed out an exhibit which was a plain language description of each of the sections.

**EXHIBIT (bus64a02)**

**Susan Witte, Blue Cross/ Blue Shield,** said she supports the bill.

**Roger McGlenn, Independent Insurance Agents,** said he supports the bill.

**Al Pontrelli, Insurance and Financial Advisors,** said he definitely favors this bill.

**Jaqueline Lenmark, American Insurance Association,** she said she supports the bill and was appreciative of the opportunity to review the bill ahead of time.

**Stuart Doggett, Land Title Association,** said he supports this bill.

**Dwight Easton, Farmers Insurance,** said he supports the bill.

**Mary Allen, Montana Benefits,** said she supports this bill.

Opponents' Testimony: None

Questions from Committee Members and Responses: None

Closing by Sponsor:

*{Tape : 2; Side : A; Approx. Time Counter : 16}*

REPRESENTATIVE DAVE GALLIK, HD 52, HELENA, asked the committee to give unanimous support to the bill.

HEARING ON HB 544

Sponsor: REPRESENTATIVE ROGER SOMERVILLE, HD 78, KALISPELL

Proponents: Dean Roberts, Motor Vehicle Division  
Jan VanRiper, State Auditors Office  
Brenda Nordlund, Attorney General's Office  
Vernon Lane, Representing himself  
Dave Steele, State Senator from Utah  
Joe Mazurek, Insure-Rite

Opponents: Greg VanHorssen, State Farm  
Jon Metropoulous, Farmers Insurance Group  
Briana Kerstein, Montana Peoples Action  
Wendy Young, WEEL  
Jacqueline Lenmark, American Insurance Association  
Roger McGlenn, Independent Insurance Agents

Opening Statement by Sponsor:

*{Tape : 2; Side : A; Approx. Time Counter : 19.4}*

REPRESENTATIVE ROGER SOMERVILLE, HD 78, KALISPELL, said this bill would strengthen the enforcement of mandatory motor vehicle liability insurance laws by creating the uninsured motorist identification program. He further stated that this bill would provide funding for this program by charging one dollar to people registering their vehicles.

Proponents' Testimony:

Dean Roberts, Motor Vehicle Division, said this bill would allow measurement of the magnitude of the uninsured motorist problem. He said it would take the Motor Vehicle Division data base on driver licensing and registration and marry it to the insurance industries book of business. He handed in two letters supporting this bill. **EXHIBIT (bus64a03) EXHIBIT (bus64a04)**

**Jan VanRiper, State Auditors Office,** said they support this bill and this is the best effort so far to deal with the uninsured motorists.

**Brenda Nordlund, Attorney General's Office,** said that in 1999 one out of eight convictions reported to the motor vehicle division involved no insurance.

**Vernon Lane, Representing himself,** said he thinks the bill doesn't go far enough, that uninsured motorists should simply have their drivers license taken away.

**Dave Steele, State Senator from Utah,** said this program has worked very well in Utah.

**Joe Mazurek, Insure-Rite,** said the one thing we don't do in this state is identify who does and who does not have insurance. He handed out some fact sheets and also audits from the Utah program.

**EXHIBIT (bus64a05) EXHIBIT (bus64a06) EXHIBIT (bus64a07) EXHIBIT (bus64a08) EXHIBIT (bus64a09) EXHIBIT (bus64a10)**

**Opponents' Testimony:**

**Greg VanHorssen, State Farm,** said they do not oppose the idea of doing something to solve the problem, but under this bill it wouldn't do much good. He handed out a report from the Utah Drivers License Division. **EXHIBIT (bus64a11)** He also handed out two reports from insurance companies.

**EXHIBIT (bus64a12) EXHIBIT (bus64a13)** He then handed out a map showing percent of uninsured motorists in each state.

**EXHIBIT (bus64a14)** And then handed in some proposed amendments.

**EXHIBIT (bus64a15)**

**Jon Metropoulous, Farmers Insurance Group,** said he sees uninsured motorists as a serious issue, but this program is very onerous for law abiding citizens and for insurance companies. He also had some proposed amendments. **EXHIBIT (bus64a16)** He said there are already laws on the books, but they are not enforced.

**Briana Kerstein, Montana Peoples Action,** said there is an unintended consequence to this bill for people who simply can't afford insurance. They could lose their car, they could lose their job and lose the money they have put into registering their car.

**Wendy Young, WEEL,** said the problem is not enforcement, it is money. They simply don't have the money to pay for insurance. She suggested that the solution would be to take the money and

help people to buy insurance rather than punish them for not being able to afford it.

**Jacqueline Lenmark, American Insurance Association**, said she opposed the bill, and handed out proposed amendments to the bill if it should need to be passed. **EXHIBIT (bus64a17)** She said this bill doesn't do anything to enhance enforcement.

**Roger McGlenn, Independent Insurance Agents**, said his major concern is the loss of markets in Montana. He was also concerned about mismatching, where a client gets notice that he hasn't insured the vehicle, when it is insured in a different way, like under a business name.

**Questions from Committee Members and Responses:**

**SENATOR COCCHIARELLA** asked how this would deal with people who seasonally license vehicles.

**Brenda Nordlund** said all you have to do is say this is a seasonal vehicle and that is it.

**SENATOR SAM KITZENBERG** said it seems that identifying them doesn't solve the problem so he asked how to solve the problem.

**Greg Van Horssen** said it would be by very strict enforcement of the penalties.

**SENATOR DON RYAN** asked why people are uninsured. He asked how many are scoff-laws and how many don't have the money.

**REPRESENTATIVE SOMERVILLE** said he doesn't have that information. He said it is a combination of things.

**SENATOR MIKE SPRAGUE** asked what would happen to people who come from out of state without insurance.

**Jacqueline Lenmark** said the tourist is not compelled to maintain insurance while in Montana. She suggested uninsured motorist insurance.

**CHAIRMAN TAYLOR** asked how the tribal governments would interact in this bill.

**Brenda Nordlund** said that if the vehicles are driven on state roads they are subject to the state law regarding mandatory insurance.



**Closing by Sponsor:**

*{Tape : 4; Side : A; Approx. Time Counter : 1.6}*

REPRESENTATIVE ROGER SOMERVILLE, HD 78, KALISPELL, encouraged the committee to resist the suggested amendments. He then handed in his testimony. **EXHIBIT (bus64a18)**

**EXECUTIVE ACTION ON HB 504**

**Motion/Vote:** SEN. RYAN moved that HB 504 BE CONCURRED IN. Motion carried unanimously.

**ADJOURNMENT**

Adjournment: 11:15 A.M.

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SEN. MIKE TAYLOR, Chairman

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KYANNE KELLY, Secretary

MT/KK

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**EXHIBIT** (bus64aad)